

EXHIBIT E

DECLARATION

I, Edward DeMatteo, do hereby swear, affirm and attest under the penalties of perjury as follows, based upon my personal knowledge of the matters contained herein:

1. I am over the age of 18 and competent to testify to the matters stated in this declaration. I give this declaration voluntarily. I have not been promised any benefit, coerced or threatened in any manner in exchange for the testimony in this declaration.

2. I am employed at The 40/40 Club, located at 6 West 25th Street, New York, New York, as a Bartender. I have held this position since June 2004.

3. I do not consider Shawn Carter to be my employer. I have never witnessed him exercise control over any personnel decisions at The 40/40 Club. To my knowledge, Mr. Carter does not interview employees, does not hire employees, does not set policies for the payment of wages, pay rates or the method of payment, and does not sign employees' paychecks. I have never witnessed Mr. Carter supervise or discipline employees, investigate complaints, or set employment policies or procedures.

4. I also do not consider Juan Perez to be my employer. I have never witnessed him exercise control over any personnel decisions at The 40/40 Club. To my knowledge, Mr. Perez does not interview employees, does not hire employees, does not set policies for the payment of wages, pay rates or the method of payment, and does not sign employees' paychecks. I have never witnessed Mr. Perez supervise or discipline employees, investigate complaints, or set employment policies or procedures.

5. At all times throughout my employment, I have been required to clock in and clock out to provide The 40/40 Club with an accurate record of my time worked.

6. I regularly work eight to ten hours per workday.

7. The 40/40 Club has never retained any portion of my tips.

8. I am not aware of any customer who has walked out of the Club without paying the bill. I have no knowledge of The 40/40 Club deducting from my wages or the wages of any other employee the amount of a bill because a customer walked out without paying.

9. The 40/40 Club has never deducted an amount from my wages due to breakage, spills, returns, wrong orders or anything similar. When I have broken items or spilled drinks, I have not been charged by the Club. I have no knowledge of any such deductions being made from any other employee's wages.

10. I believe The 40/40 has paid me all wages to which I am entitled. I do not believe that I have been denied any minimum, overtime or other wages.

11. The 40/40 Club does not serve customers after 4:00 A.M. I am not aware of any server ever working until 6:00 a.m. When we arrive for work at the Club, we log into the computer. We log out of the computer after our final sale is complete.

12. Unlike other restaurants, servers at The 40/40 Club have only minimal side work to do following the conclusion of their shift. On most nights, I generally leave within one hour after the service ends.

13. At the bar, a 20% tip is automatically added to each bill that is \$30 and over by the computer. Usually we receive more cash than credit card payments. At the end of each night, a manager and I run a cash-out report for my sales and I receive a cash payment for my credit card tips from the Club.

14. The bartenders pool their tips, but we do not have a tip pooling arrangement with the servers. We do give a percentage of our tips to the food runners and barbacks who help us with service.

15. This declaration was prepared by counsel for Twenty Ones, Inc. d/b/a The 40/40 Club based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for Twenty Ones Inc. that I should only sign this declaration if everything within it is true and correct to the best of my knowledge, information and belief. I have been given a full opportunity to review carefully this declaration I have been given a full opportunity to review carefully this declaration and freely make any corrections and additions of any kind. I verify that the information I have provided in this declaration is true and correct.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.



Edward DeMatteo



Date

DECLARATION

I, Edward DeMatteo, do hereby swear, affirm and attest under the penalties of perjury as follows, based upon my personal knowledge of the matters contained herein:

1. I am over the age of 18 and competent to testify to the matters stated in this declaration. I give this declaration voluntarily. I have not been promised any benefit, coerced or threatened in any manner in exchange for the testimony in this declaration.

2. I am aware that former employees of The 40/40 Club have brought a class-action lawsuit against the Club claiming that they were not paid their full and proper wages. I am aware that I am a potential class member to the lawsuit and that the statements contained in my declaration may affect my rights in the lawsuit, should I choose to join it. However, I do not desire to become an opt-in plaintiff to any pending lawsuit against The 40/40 Club because I believe I have been properly compensated by the Club at all times.

3. I previously gave a declaration on August 20, 2007. I have been advised that I may take back my declaration without penalty of any kind. I freely elect not to rescind my declaration and reaffirm that everything stated therein is true and accurate.

4. As I indicated in my previous declaration, at all times throughout my employment with the Club, I have been required to clock in and clock out for each shift that I work. This is required even when I am working at the service bar and not taking orders directly from customers. When I clock out each night, I am required to declare the tips that I have earned.

5. I have been employed at The 40/40 Club as a Bartender from June 2004 to the present. I have never held the position of Bar Manager, nor have I held myself out to be a Bar Manager to Christopher Pownall, or any other employee.

6. Throughout my employment at the Club, my paychecks and paystubs have been available for me to pick up in the Club's office on a regular basis. The paychecks are kept in a labeled box. When I train new employees at the Club, I routinely show them where the paychecks are located.

7. My paychecks are regularly void. I understand that the paycheck is void because the Club deducts the required tax withholdings for the tips that I earn from my wages. This results in no money being due to me by the Club and, thus, a void paycheck. A copy of one of my paychecks is attached hereto as Exhibit A.

8. The paychecks indicate the number of hours that I have worked in the payroll period. To my knowledge, all of my paychecks have accurately stated my hours worked. If I had thought there was a mistake, I would have filled out a correction payment form. These forms are available in the Club's office.

9. I do not recall Christopher Pownall, Brandon Sturman, or any other employee, saying that they had not received a paycheck. If any employee had said this to me, I would have explained to him or her that the paychecks were available for pick up in the office. I never told Christopher Pownall, Brandon Sturman, or any other employee, that I received no hourly wage for my hours worked, or that I did not receive paychecks, as such a statement would not be true.

10. I have received W-2s from the Club for all years that I have worked. They accurately reflect my hours and wages. I do not recall Christopher Pownall asking me whether he would receive a W-2. If he had, I would have told him yes.

11. I have received all the tips that I am owed for all the parties at which I have worked. In all cases, I either received my share of the tips in cash at the end of the evening, or in a check shortly thereafter. I do not recall any employee complaining to me that he or she had not

received tips owed for a party. I never told Christopher Pownall, or any other employee, that he was entitled to any additional gratuity above what he already received for a party at the Club.

12. I have never had any deductions taken from my wages without my consent. Although I have broken bottles of alcohol, I was not required to pay for the bottles. When I have spilled a drink or prepared a wrong order, I have not been required to pay for the drink. Rather, I inform a manager of what has occurred and he or she will void the order from the computer.

13. This declaration was prepared by counsel for Twenty Ones, Inc. d/b/a The 40/40 Club based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for Twenty Ones Inc. that I should only sign this declaration if everything within it is true and correct to the best of my knowledge, information and belief. I have been given a full opportunity to review carefully this declaration and freely make any corrections and additions of any kind. I verify that the information I have provided in this declaration is true and correct.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.



Edward DeMatteo



Date